

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

HENRY WATKINS SKINNER,

Plaintiff,

v.

LYNN SWITZER,

District Attorney,

31st Judicial District of Texas,

Defendant.

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2:09-CV-281

**REPORT AND RECOMMENDATION**  
**TO GRANT PLAINTIFF'S MOTION TO DISMISS**

On November 4, 2011, the Court administratively closed the instant 42 U.S.C. § 1983 case. On July 20, 2012, plaintiff Skinner filed a Motion to Dismiss (document 106). A certificate of conference is not attached to plaintiff's motion. *See* Local Rule 7.1 (establishing a certificate of conference is not required for a motion to dismiss). It would appear defendant would not oppose the motion. In abundance of caution, however, the Court issues this Report and Recommendation to ensure defendant has adequate opportunity to respond to plaintiff's motion, if defendant feels such a response is necessary. If defendant intends to object to this Report and Recommendation, she shall so notify the Court immediately and **not later than Monday, July 30, 2012**. If defendant intends to file objections, she will be allowed the normal fourteen-day period to do so. If defendant fails to advise the Court by July 30, 2012 of her intent to file objections, the Report and Recommendation will be subject to adoption by the District Court and the case will be ripe for dismissal.

RECOMMENDATION

It is the RECOMMENDATION of the United States Magistrate Judge to the United States District Judge that the Court GRANT plaintiff Skinner's Motion to Dismiss and DISMISS this case.

IV.  
INSTRUCTIONS FOR SERVICE

The United States District Clerk is directed to send a copy of this Report and Recommendation to each party by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED this 26th day of July 2012.

  
CLINTON E. AVERITTE  
UNITED STATES MAGISTRATE JUDGE

**\* NOTICE OF RIGHT TO OBJECT \***

***Except as otherwise limited by the special instructions given to defendant in the body of this Report and Recommendation,*** any party may object to these proposed findings, conclusions and recommendation. In the event parties wish to object, they are hereby NOTIFIED that the deadline for filing objections is fourteen (14) days from the date of filing as indicated by the "entered" date directly above the signature line. Service is complete upon mailing, Fed. R. Civ. P. 5(b)(2)(C), or transmission by electronic means, Fed. R. Civ. P. 5(b)(2)(E). **Any objections must be filed on or before the fourteenth (14th) day after this recommendation is filed** as indicated by the "entered" date. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b)(2); *see also* Fed. R. Civ. P. 6(d).

Any such objections shall be made in a written pleading entitled "Objections to the Report and Recommendation." Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation contained in this report shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge in this report and accepted by the district court. *See Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1), *as recognized in ACS Recovery Servs., Inc. v. Griffin*, 676 F.3d 512, 521 n.5 (5th Cir. 2012); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).